

### Remarks/Arguments

This Amendment is in response to the Office Action mailed October 8, 2004. Claims 1-50 are pending in this case. Claims 1-50 have been rejected. Claims 5, 20 and 43 have herein been amended for clarification purposes. Claims 1-4, 6-19, 21-42 and 44-50, set forth above, have been previously presented and remain unchanged.

Claims 1-7 and 15-39 have been rejected under 35 U.S.C. §102(b) as being anticipated by Belgian Patent No. 628233 (the "Belgium '233 patent"). For the following reasons, the Examiner's rejection is respectfully traversed.

The Belgium '233 patent is not the same invention ("identity of invention") as Claims 1-7 and 15-39, and thus does not anticipate the same under the law pertaining to 35 U.S.C. §102:

[A]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, **arranged as in the claim**. ... The issue is decided by identifying the elements of the claims, **determining their meaning in light of the specification** and prosecution history, and identifying corresponding elements disclosed in the allegedly anticipating reference....

An anticipatory reference must clearly and unequivocally disclose the claimed invention or direct those skilled in the art to the claimed invention without any need for picking, choosing, and combining various disclosures not directly related to each other by the teachings of the reference. ... [A]n anticipation must speak affirmatively and with

certainty; must disclose the invention without debate;  
... (emphasis added, citations omitted) Idacon Inc. v.  
Central Forest Products Inc., 3 USPQ2d 1079, 1089 (ED  
Ok 1986). Accord: Glaverbel S.A. v. Northlake  
Marketing & Supply Inc., 33 USPQ2d 1496, 1498 (CAFC  
1995).

The elements of Claims 1-7 and 15-39, as determined or interpreted in light of the specification and drawings, are not anticipated by the cited prior art. Applicants respectfully assert that the Examiner's anticipation rejection fails to meet the above identified requirements of the law pertaining to 35 U.S.C. §102.

Specifically, Applicants repeat and reallege all of the arguments made in its prior Amendment and Response of June 28, 2004, as though fully stated herein.

As previously indicated, Claims 1-7 and 15-39 are directed towards a system and apparatus which combines multiple small stacks of mailpieces into a single large stack of mailpieces in a desired sequence. This process continues until the single large stack obtains a certain height, at which time the large stack is transferred into a mail tray. The Belgium '233 patent does not combine multiple small stacks of mailpieces into a single large stack of mailpieces, and is largely unrelated to the art of mail processing.

The Belgium '233 patent illustrates cartons or items being packed into a box. No stacks of any items, let alone multiple stacks of any item, are being combined into a single large stack. Instead, a row of single items are held above a row of subsequent single items, yet do not touch, until they are subsequently fed directly into and packed side by side in a box (see Figure 3).

In other words, at best, the Belgium '233 patent creates a "item-over-item" arrangement, W over X, of a row of items (see Figure 2). A single item W is positioned above a single item X to form the item-over-item arrangement, with four such arrangements in a row (as opposed to a stack), without touching (see Figure 3). Never does the Belgium '233 patent ever position more than one single article over another single article. Thus, unequivocally, no existing stack or multiple stacks is/are placed upon another existing stack to form a single large stack in the Belgium '233 patent. For this reason alone, *inter alia*, the Belgium '233 patent does not anticipate Claims 1-7 and 15-39.

The Examiner states that the Belgium '233 patent "*meters four articles (the small stack) at a time to form a large stack consisting of eight articles.*" This statement is inaccurate and cannot properly serve as the basis of an anticipation rejection under the law pertaining to 35 U.S.C. §102. The four articles are simply not in a stack in the Belgium '233 patent. They are

simply four single items in a horizontal row. Additionally, there is no large stack of eight articles in the Belgium '233 patent. Instead, there is a horizontal row of four items positioned over, but not touching, another horizontal row of four items (item-over-item arrangement in rows of four). The Belgium '233 patent does not clearly and unequivocally disclose the creation of a single large stack from multiple small stacks as claimed in Claims 1-7 and 15-39.

Accordingly, under the law pertaining to 35 U.S.C. §102, the Belgium '233 patent clearly fails to anticipate numerous elements in Claims 1-7 and 15-39, including the following:

- the means for combining multiple small stacks of mailpieces into a single large stack of mailpieces, and means for transferring the large stack of mailpieces into a tray, as in Claim 1 (there is no single large stack of mailpieces created from combining multiple small stacks in the Belgium '233 patent).

- the means for releasably engaging a tray, as in Claim 2 (elements 172 and 180 of the Belgium '233 patent do not releasably engage box 170, but only freely support the box).

- the means for conveying a stream of small stacks of mailpieces to means for combining, as in Claim 3 (the conveyor in the Belgium '233 patent conveys single items in a row and would be ineffective to convey stacks of articles).

- the means for combining multiple small stacks includes a fork lift assembly, as in Claim 4 (the Belgium '233 patent does not disclose means for combining multiple small stacks).

- the fork lift assembly is moved into and out of contact with a large stack of mailpieces, as in amended Claim 5 (the Belgium '233 patent fails to move a forklift assembly into and out of engagement with a single large stack of mailpieces).

- the means for transferring includes a plurality of driven rollers, as in Claim 6 and 7 (the Belgium '233 patent simply pushes the items into the box with pusher element 248).

- a bridge conveyor delivering a stream of small stacks of mailpieces to a stack accumulator; a stack accumulator combining small stacks of mailpieces into a single large stack of mailpieces in a desired sequence; and an output tray station engaging a mail tray and releasing the mail tray once filled, as in Claim 15 (the Belgium '233 patent fails to anticipate a conveyor for stacks of mailpieces, a stack accumulator for accumulating the small stacks into a single large stack, or a traying station which engages and releases a tray).

- the stack accumulator placing successive small stacks on the bottom of a large stack, as in Claim 16 (the Belgium '233 patent does not accumulate multiple small stacks of mailpieces into a large stack).

- a bridge conveyor having a plurality of belt drives (Claim 17) including a bottom belt drive and a side belt drive (Claim 18), as in Claims 17 and 18 respectively (the Belgium '233 patent fails to anticipate a bridge conveyor for stacks of mailpieces, having both a bottom drive belt and a side drive belt).

- the stack accumulator includes a fork lift assembly (Claim 19) which selectively lifts and drops a large stack (amended Claim 20), as in Claims 19 and 20 respectively (the Belgium '233 patent fails to anticipate any lift assembly for accumulating multiple small stacks of mailpieces into a single large stack by selectively lifting and dropping the large stack).

- a sensor for initiating a fork lift cycle (Claim 21), wherein the fork lift assembly extends under and holds a large stack above successive small stacks, retracts and releases the large stack onto each small stack, and lowers, is advanced back under and raises the large stack to complete a cycle (Claim 22), as in Claims 21 and 22 respectively (the Belgium '233 patent fails to lift a stack of mailpieces, and only lifts single, non-stacked rows of items).

- a stack accumulator having a plurality of rollers (Claim 23), including driven bottom rollers and driven side rollers (Claim 24), a top roller (Claim 25) being connected to a pivot arm which triggers a stack height limit sensor (Claim 26),

whereupon the stack accumulator transfers the large stack to the mail tray (Claim 27) via cooperation of the plurality of rollers (Claim 28), as in Claims 23-28 respectively (the Belgium '233 patent has no such corresponding structure).

- a stack accumulator having a plurality of guides (Claim 29), including a side guide assembly (Claim 30) which is retractable (Claim 31) and has high friction belt strips (Claim 32), or a rear guide assembly (Claim 33) comprising a flexible belt (Claim 34), as in Claims 29-34 respectively (the Belgium '233 patent has no such corresponding structure).

- a stack accumulator having a gate (Claim 35) and a pusher arm (Claim 36), as in Claims 35 and 36 respectively (the Belgium '233 patent has no such corresponding structure).

- an output tray station including a tray latch assembly (Claim 37), a tray support ledge (Claim 38), and at least one mail guide (Claim 39), as in Claims 37-39 respectively (the Belgium '233 patent has no such corresponding).

Claims 8-14 and 40-50 have been rejected under 35 U.S.C. §102(e) as being clearly anticipated by Hendrickson et al., U.S. Patent No. 6,241,099 B1 ("the '099 patent"). For the following reasons, the Examiner's rejection is respectfully traversed.

The '099 patent does not clearly and unequivocally disclose every limitation of Claims 8-14 and 40-50, as determined or

interpreted in light of the specification and drawings. Applicants respectfully assert that the Examiner's anticipation rejection fails to meet the above identified requirements of the law pertaining to 35 U.S.C. §102.

Specifically, Applicants repeat and reallege all of the arguments made in its prior Amendment and Response of June 28, 2004, as though fully stated herein.

As previously indicated, Claims 8-14 and 40-50 are directed towards a method which combines multiple small stacks of mailpieces into a single large stack of mailpieces in a desired sequence. Once the large stack reaches a certain height, the large stack is transferred into a mail tray. The '099 patent does not combine multiple small stacks of mailpieces into a single large stack of mailpieces. To the contrary, the '099 patent discloses a system wherein mailpieces are staged, and then merged individually into single output stream, and then individually fed into a tray. For this reason alone, *inter alia*, the '099 patent does not anticipate Claims 8-14 and 40-50.

The Examiner alleges that the '099 patent combines multiple small stacks of mailpieces into a single large stack because the '099 patent's Abstract indicates that:

*"mail items are sorted ... into a plurality of subsets of mail items" (the small stack) "mail items are then collated and merged into a single output stream from*



*the respective subsets of mail items ... Portions of the output stream ... are collected in batches" (the large stack) "which maintain the sequence."*

The statement that the '099 patent combines multiple small stacks of mailpieces into a single large stack is inaccurate and cannot properly serve as the basis of an anticipation rejection under the law pertaining to 35 U.S.C. §102. Assuming for the sake of argument that the '099 patent resulted in the creation of a single large stack from multiple small stacks, the method of creating such a single large stack is very different and does not anticipate the steps of Claims 8-14 and 40-50.

The '099 patent never conveys stacks of mailpieces. Instead, the mailpieces are moved individually. Further, the '099 patent does not maintain sequence order of the mailpieces. Instead, the mailpieces are re-sequenced at the staging station. Also, as indicated above, the '099 patent does not create a single large stack from multiple small stacks, and does not transfer the single large stack into a tray via a stack accumulator. Thus, the '099 patent does not clearly and unequivocally disclose the steps of creating a single large stack from multiple small stacks in the manner claimed in Claims 8-14 and 40-50.

Accordingly, under the law pertaining to 35 U.S.C. §102, the '099 patent clearly fails to anticipate numerous elements in Claims 8-14 and 40-50, including the following steps:

- combining multiple small stacks of mailpieces into a single large stack of mailpieces while maintaining sequence order, and transferring the large stack of mailpieces into a tray, as in Claim 8 (the '099 patent does not combine small stacks of mailpieces into a single large stack of mailpieces while maintaining sequence order, nor does it transfer a single large stack into a tray).

- releasably engaging a tray during the step of transferring, as in Claim 9 (the tray in the '099 patent appears to freely sit on a platform (see Figure 11) and is not releasably engaged during the step of transferring).

- conveying a stream of small stacks of mailpieces, as in Claim 10 (the '099 patent does not convey stacks of mailpieces).

- using a fork lift assembly in the step of combining (Claim 11), and selectively raising and lowering, and selectively positioning the fork lift assembly into and out of engagement with a large stack of mailpieces (Claim 12), as in Claims 11 and 12 (the '099 patent does not use a fork lift assembly to combine multiple small stacks of mailpieces).

- driving a plurality of rollers in contact with a large stack, as in Claim 13, or pushing a large stack, as in Claim 14 (the '099 patent neither drives nor pushes a large stack of mailpieces).

- combining multiple small stacks of mailpieces into a single large stack by conveying a stream of small stacks of mailpieces via a bridge conveyor; combining the small stacks of mailpieces into a single large stack of mailpieces in a desired sequence via a stack accumulator; and transferring the large stack to a mail tray via the stack accumulator, as in Claim 40 (the '099 patent does not convey and combine small stacks of mailpieces into a single large stack, and does not transfer the large stack into a tray).

- releasably engaging a tray in an output station proximate the stack accumulator, as in Claim 41 (the '099 patent does not releasably engage the tray).

- placing successive small stacks on the bottom of a large stack to maintain sequence order during the step of combining, as in Claim 42 (the '099 patent does not combine multiple small stacks of mailpieces into a large stack).

- engaging and holding a large stack, advancing a small stack under the large stack, retracting the fork lift assembly to release the large stack onto the small stack, lowering the fork

lift assembly below the large stack, advancing the fork lift assembly under the large stack, and raising the large stack to complete a fork lift cycle, as in Claim 43 (the '099 patent does not disclose cycling a lift assembly for accumulating multiple small stacks of mailpieces into a single large stack).

- sensing an advancing small stack to initiate the fork lift cycle, as in Claim 44 (the '099 patent fails to lift a stack of mailpieces during a fork lift cycle).

- driving small stacks of mailpieces to a stack accumulator via a plurality of belt drives, as in Claim 45 (the '099 patent does not convey stacks of mailpieces).

- driving a plurality of rollers in the stack accumulator to transfer a large stack to a tray (Claim 46), opening a stack transfer gate (Claim 47), sensing the stack height to initiate stack transfer (Claim 48), and activating a pusher arm to push the stack and assist in the transfer to the mail tray (Claim 49), as in Claims 46-49 (the '099 patent has no such corresponding steps).

- releasably engaging a tray with a tray latch assembly (the '099 patent has no such corresponding step).

It is noted that with the exception of Claim 2, the Examiner has not identified the alleged corresponding elements of the cited references which are relied upon in the anticipation

rejections of Claims 1-50, discussed above. Applicant respectfully requests that the Examiner identify each such alleged corresponding element so that Applicant has the opportunity to fairly address the same on appeal, if necessary.

In view of the above remarks, it is respectfully submitted that none of the prior art of record, either alone or in combination, fairly teaches, suggests or discloses the novel and unobvious features of Applicants' claims. Accordingly, Applicants respectfully assert that the claims as presented herein are now in condition for allowance. An early notice allowance is respectfully requested.

Any arguments of the Examiner not specifically addressed should not be deemed admitted, conceded, waived, or acquiesced by Applicants. Any additional or outstanding matters the Examiner may have are respectfully requested to be disposed of by telephoning the undersigned.

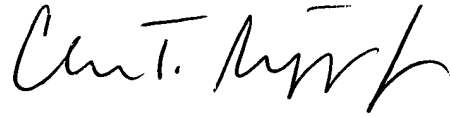
A Notice of Appeal is submitted herewith, along with a form PTO-2038 authorizing a credit card charge to cover the notice of appeal fee.

The Commissioner is hereby authorized to charge any fees which may be required, including if necessary the above fees if there is any problem with the credit card charge, to Deposit Account No. 16-0657.

A postcard is enclosed evidencing receipt of the same.

Respectfully submitted,

**PATULA & ASSOCIATES, P.C.**

A handwritten signature in black ink, appearing to read "Chas. T. Riggs Jr.", written in a cursive style.

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